

Guidance for Section 7 Compliance on Building Demolition/Renovation and Tree Removal Projects (i.e. HUD, CDBG) to Avoid Adverse Effects to Federally-Listed Bats

Revised January 29, 2016

Application ID: LMI0001673R

Owner: Ronald D. Ray

Address: 14 West 3rd Street, Moonachie, Bergen County, New Jersey

Activities: Demolition of existing, temporary mobile home unit (MHU) and reconstruction and elevation of new MHU

The NJDEP HUD Environmental Review Tool 2.1 (map screening tool) no longer includes threatened or endangered bats. For all projects statewide, the following guidance and action steps should be followed to determine whether a project may adversely impact federally listed Indiana bats¹, Northern Long-eared Bats², or their habitats.

A list of NJ municipalities with Indiana Bat and/or Northern Long-eared Bat *maternity/roost* and *hibernation* occurrences can be found at <http://www.fws.gov/northeast/njfieldoffice/pdf/battowns.pdf>. Areas of habitat for both species are mapped in IPaC.

The following guidelines and timing restrictions reflect the US Fish and Wildlife Service's (USFWS) final 4(d) rule³ for Northern Long-eared Bat. Previous guidance involving structures have been removed accordingly.

Question 1: Does the project involve removal of trees⁴?

(Note: The project application/ERR must indicate whether – and how much - tree removal is required.)

- No (no tree removal) => Project may affect, but is not likely to adversely affect listed bats.
- Yes (tree removal is required) => Proceed to Question 2

No, the project does not involve removal of trees. Project may affect, but is not likely to adversely affect listed bats.

Question 2: How much tree removal is required, and where and when is tree removal planned to occur?

(Note: Hazard tree removal is permitted under the 4(d) rule³ for Northern Long-eared Bat (*not* Indiana Bat).)

¹ For additional USFWS info and guidance on Indiana Bats:
www.fws.gov/northeast/njfieldoffice/endangered/lbat.html

² For additional USFWS info and guidance on Northern Long-eared Bats:
www.fws.gov/midwest/endangered/mammals/nleeb/

³ The final 4(d) rule (published January 14, 2016) outlines Endangered Species Act protections for the Northern Long-eared Bat: www.fws.gov/midwest/endangered/mammals/nleeb

⁴ Trees = woody vegetation with a diameter at breast height (dbh) of greater than 3 inches.

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- Fewer than ten trees will be removed, and tree removal will occur during the INACTIVE season for bats⁵ = No effect on listed bats.
- Fewer than ten trees will be removed, and tree removal will occur during the ACTIVE season for bats⁵ within a municipality/area that is *not* mapped as habitat for Northern Long-eared Bats and *is not* within the known or potential range of Indiana Bats => Tree clearing may affect, but is not likely to adversely affect listed bats.
- Fewer than ten trees will be removed, but tree removal will occur during the ACTIVE season for bats⁵ within a municipality/area that *is* mapped as habitat for Northern Long-eared Bats and/or that *is* within the known or potential range of Indiana Bats => May affect listed bats. Consultation with USFWS may be required⁶; **forward project to Endangered and Nongame Species Program (ENSP)⁷ for review.**

⁵ The ACTIVE season is:

- a. April 1 to September 30 in municipalities that contain maternity occurrences *or* potential occurrences of Indiana Bats and/or Northern Long-eared Bats; hence the INACTIVE season is October 1 to March 31; *or*
- b. April 1 to October 31 in municipalities that contain hibernation occurrences of Northern Long-eared Bats; hence the INACTIVE season is November 1 to March 31; *or*
- c. April 1 to November 15 in municipalities that contain hibernation occurrences of Indiana Bats; hence the INACTIVE season is November 16 to March 31.

⁶ The USFWS contact at the NJ Field Office is Jeremy Markuson: Jeremy_Markuson@fws.gov; 609-382-5266.

⁷ The NJ Div. of Fish and Wildlife's ENSP contact for bats is MacKenzie Hall: MacKenzie.Hall@dep.nj.gov; 609-292-1244.

Williams, Beth

From: Markuson, Jeremy <jeremy_markuson@fws.gov>
Sent: Tuesday, February 02, 2016 8:31 AM
To: McEvoy, Kim
Cc: Hall, Mackenzie
Subject: Re: Latest guidance for bats

Hi Kim,

I have reviewed the January 29, 2016 guidance document provided by MacKenzie. The guidance document will be used by the New Jersey Department of Environmental Protection for reviewing U.S. Department of Housing and Urban Development (HUD) funded projects that may affect the federally listed northern long-eared bat (threatened) (*Myotis septentrionalis*) and Indiana bat (endangered) (*Myotis sodalis*). These projects specifically involve the demolition, renovation, and/or elevation of structures damaged by Hurricane Sandy. I concur with the use of the guidance document for determining "no effect" or "not likely to adversely affect" conclusions. I also concur that the guidance document follows the northern long-eared bat final 4(d) rule. Please use the steps and procedures identified in the guidance document for any Hurricane Sandy related projects that may impact these federally listed species.

Thanks,

Jeremy

Jeremy Markuson
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On Mon, Feb 1, 2016 at 1:09 PM, Hall, Mackenzie <Mackenzie.Hall@dep.nj.gov> wrote:

Hi Jeremy,

Kim McEvoy & the staff at Sandy Recovery EHP are ready to start applying the latest guidance for avoiding impact to listed bats. These are the guidance that you & I finalized last week (attached; I did remove the word "final," just in case!). For everybody's record, can you please confirm that you concur with the guidance?

Thanks!

MacKenzie

MacKenzie Hall

Biologist

NJ Division of Fish and Wildlife

Endangered and Nongame Species Program

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